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Espionage Trial Focuses On Whitworth's Intent

Did Walker Reveal Soviets as Customers?

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SAN FRANCISCO, May 1—As the espionage trial of retired Navy communications expert Jerry Alfred Whitworth finishes its fifth week in federal court here, the issue of whether Whitworth knew the material he allegedly passed to John Anthony Walker Jr. was going to the Soviet Union is emerging as one of the most critical in the trial.

Walker testified Wednesday that, through the 11 years he and Whitworth allegedly conspired to pass Navy coding secrets to the Soviet Union, he never disclosed the true identity of his "buyer."

While that is far from fatal to the government's case, it does provide defense lawyers with some ammunition in a case that appeared to many to have no loose ends.

During his initial "sales pitch" to Whitworth in 1974, Walker said he was hazy with his Navy colleague and "best friend" about where the material was going, suggesting buyers were allied countries such as Israel, organized crime or a private publication such as Jane's Fighting Ships.

Whitworth is charged with eight espionage counts that state he had "intent and reason to believe" the information he was providing "was to be used to the injury of the United States and to the advantage of a foreign nation, that is, the Union of Soviet Socialist Republics."

Defense lawyers have indicated through their questioning that their defense may hinge on an argument that Whitworth, who they have said might take the stand, believed the material was going to a friendly country such as Israel.

In their questioning of Walker and other witnesses, prosecutors have sought to show that Whitworth must have realized the information was delivered to the Soviets.

For example, Walker testified that Whitworth expressed concern about the arrests of several Soviet spies and asked Walker to find out from his buyers what had gone wrong. Walker said he thought Whitworth was "overly concerned" about being caught but that he came back with answers from the Soviets anyway.

Under questioning by Assistant U.S. Attorney William S. Farmer, Walker said Whitworth, in his "espionage debriefings" about the material he was providing, never pointed out material relating to Israel or the Middle East.

However, Walker said, Whitworth did highlight a message he obtained while aboard the aircraft carrier U.S.S. Enterprise in 1983 relating to an incursion by F-14 fighter jets into Soviet airspace.

In addition, prosecutors have won permission to introduce a series of 1984 letters to the FBI offering to expose an espionage ring that they contend were written by Whitworth. In the first letter, dated May 7, the author, who signed "RUS," said, "I didn't know that the info was being passed to the USSR

until after I had been involved a few years and since then I've been remorseful and wished to be free."

The prosecution and defense disagree strenuously over whether Whitworth may be convicted of espionage if the jury finds that the government has not proved that Whitworth knew the material was going to the Soviets.

Defense lawyers Tony Tamburello and James Larson argue that the government is bound to prove what it has alleged in the indictment. "If you're charged with a particular crime by a grand jury and [the government] proves something different at the time of trial, you should not be convicted," Tamburello said.

But prosecutors disagree. They point to the espionage statute itself, which makes it a crime to pass classified information with intent or reason to believe that it would be used to the injury of the U.S. or the benefit of a foreign power—and does not specify which country.

The issue is likely to be addressed in Judge John P. Vukasin Jr.'s instructions to the jury at the conclusion of the case.

Debriefing Document Disclosure Considered

SAN FRANCISCO, May 1—U.S. District Judge John P. Vukasin Jr. interrupted cross-examination of accused spy John Anthony Walker Jr. today to decide whether defense lawyers were entitled to see government debriefings of Walker following his plea arrangement.

Vukasin said lawyers for accused spy Jerry Alfred Whitworth could have access to some of the documents but reserved ruling on others until tomorrow. He recessed the trial until Monday.

As he finished his direct testimony, Walker said he warned Whitworth that his constantly changing career plans "could be dangerous to one's health."

Walker said Whitworth's actions could "foul up the money flow and put us in danger of actually being assassinated."

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